

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
CHESAPEAKE BUILDING \* LEONARDTOWN, MARYLAND  
Tuesday, May 26, 2009**

Members present were Steven Reeves, Chairman; Brandon Hayden, Shelby Guazzo, Susan McNeill, Merl Evans, Martin Siebert, and Lawrence Chase. Board of County Commissioners present were President Francis Jack Russell, Larry Jarboe, Dan Raley, and Kenny Dement. Department of Land Use & Growth Management (LUGM) staff present were Derick Berlage, Director; Phil Shire, Deputy Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Dave Chapman, Capital Facilities Planner; Dave Berry, Planner II; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Deputy County Attorney David Weiskopf and Bob Schaller were also present.

The Chair called the meeting to order at 6:32 p.m.

**APPROVAL OF THE MINUTES** – The minutes of May 11, 2009 were approved as presented.

**PUBLIC HEARINGS**

**Joint Public Hearing for Extensions of Time**

Mr. Jackman gave an overview of the text amendment for the extension of time limits imposed by the Comprehensive Zoning Ordinance and/or the Subdivision Ordinance. Mr. Schaller presented background information for the proposed text amendment stating a meeting was held on April 14, 2009 including representatives from the Departments of Economic Development, Land Use and Growth Management, Public Works, and the County Attorney. Mr. Schaller stated items discussed at this meeting included extending approvals of projects, deferral of bond approvals, deferral of fees including impact fees, no new fees, and extending the wet season for perc tests especially in the Critical Area. Mr. Shire gave an analysis of the permit approval limitations currently contained in the Zoning Ordinance that may be impacted by this proposal including:

Section 22.4, Zoning Permits  
Section 24.8, Variance  
Section 25.9, Conditional Use  
Section 44.4.5, PUD  
Section 52.4 Non Conforming Uses  
Section 60.8 Site Plans

Mr. Shire stated we are asking for relief for projects that could expire between January 1, 2009 and December 31, 2010 however there are other projects that could benefit from moving the date back to October 31, 2008. Ms. McNeill asked about the status of the HB921 and asked what effect this would have on the County. Ms. Chesser stated the County still maintains control of its own Ordinance and would therefore still need to enact our own extension provision. Commissioner Raley asked if staff is recommending the timeframe be extended to October 31, 2008 to December 31, 2010. Mr. Shire stated this is correct and stated he could provide a list of all projects within the 10 day open period. Commissioner Raley asked about the deferral of fees and why this is not being incorporated into the amendment. Mr. Shire stated these fees are revenues for the County and even during this tough economic time the County cannot waive fees.

Commissioner President Russell opened the hearing to public comment.

Mr. F. Hamer Campbell Jr., Director of Government Affairs for the Maryland National Capital Building Industry Association stated he is in support of this amendment. Mr. Campbell stated our industry is in a full blown depression as housing stats have dropped almost 8- percent in the past few years and many of our members have already gone out of business and many more have cut their employees. Mr. Campbell stated by permitting these extensions, this will enable our members to be ready to meet the demand when the market returns rather than having to apply

for new plans and permits and go through the preparation of new plans and pay the additional fees that come with this process.

Mr. Tom Farasy stated we support the two amendments being proposed this evening. Mr. Farasy stated when the economy recovers this amendment will ensure the protection of our investments.

Mr. Robin Guyther stated he is in support of the amendment and also stated he is in support of Mr. Shire's recommendation to move the date back to October 31, 2008.

Ms. Paula Martariano stated she is in support of this amendment.

Commissioner President closed the public portion of the hearing stating the Board of County Commissioners will leave the record open for the next 10 days to receive additional comments.

Mr. Reeves closed the public portion of the hearing stating the record will be left open for the next 10 days to receive additional comments.

## **RECOMMENDATION**

### **CWSP #08-200-003 – Mill Cove Manor & CWSP #08-200-004 – Mill Cove Harbor**

Mr. Reeves stated a letter from John Norris III dated May 26, 2009 was received stating these items have been appealed to the Board of Appeals and will not be heard tonight.

## **DECISION**

### **Wineries**

Ms. Chaillet stated staff met today to discuss this amendment and due to this meeting would like to take the conference facility in use type 44 off the table. Ms. Chaillet gave an overview of the revised text amendment and stated the definition of winery has also been revised. Ms. Chaillet explained the permit process for special events.

Ms. Guazzo stated this is a request to allow wineries in the RPD and the RL transitional zone and one of the general standards is a minimum lot size of 10 acres and she feels the minimum should be 15 acres in the RL zones. Ms. Guazzo stated if we allow wineries in the RL transitional zone on a parcel can the owners still build residential units on the remainder of the parcel. Ms. Guazzo asked if we are inadvertently creating a new zone called mixed use in the RL. Ms. Guazzo stated it is her understanding this new zone is not being approved for the entirety of the RL transitional zone which seems to be around 800 acres. Ms. Guazzo stated this is being restricted to about 60 acres that borders the RPD zone. Ms. Guazzo stated the general standards state, "the property must be located within the residential transitional area in accordance with the Lexington Park Development District Master Plan (800 acres) and must be adjacent to the RPD zone (60 acres). Ms. Guazzo stated this may fall under the definition of spot zoning. Ms. Guazzo stated all other agricultural uses in the RL or RL transitional zone are not allowed events as a permitted use. Ms. Guazzo stated these are some of her concerns with the RL zoning in this text amendment.

Ms. McNeill stated we're not creating a new regulation we're simply allowing wineries special events. Ms. Chaillet stated this is correct as use #125 already exists for special events. Mr. Shire stated 2.2.1 has a very vague definition that says there is a transitional zone between rural and residential. Ms. Guazzo asked if there would be residential and commercial uses in the same zone and stated this is what creates a mixed use zoning area. Mr. Shire stated this is an opportunity to maintain the rural character of houses with wineries in the RL zone. Ms. Guazzo recommended placing the 800 acres in the RPD rather than "spot zoning" by placing it in the RL zone. Mr. Berlage stated spot zoning applies to placing separate zoning on a single parcel of land rather than several acres of land that already contains numerous parcels. Mr. Berlage stated wineries are a definable use in the RPD and RL zones as they can be compatible uses. Mr. Berlage stated we are allowing a winery in the RPD and RL zones but in the RL zone it must be

RL transitional therefore it does not create a new zone but rather stipulate conditions one would have to abide by to have a winery in the RL zone.

Mr. Schaller stated animal husbandry, aquaculture is allowed in the RL zone meaning we already allow agricultural use and residential uses in the same zone. Mr. Schaller stated now is the time to be supportive of the growing and processing of grapes in Maryland.

Mr. Evans stated we are breaking new ground however he feels this is a good idea at this time. Mr. Evans stated he has been in support of wineries and vineyards within St. Mary's County. Mr. Evans stated he is also in support of having these in the RPD and RL zones as they are reasonable uses. Mr. Evans stated he is glad to see the convention center was removed from the amendment as he did not want the convention center to become the primary use of the property. Mr. Evans stated being able to have events on site makes sense and should be permitted separately. Mr. Evans stated anything we can do to allow more agricultural uses is a good idea.

***Mr. Evans made a motion in the matter of the winery text amendment to allow wineries as an agricultural / agri-tourism use in the RPD and in the RL transitional planning areas, I move to recommend approval of the amendment to the Board of County Commissioners and further move to allow the Chairman to sign a resolution regarding the wineries text amendment and Ms. McNeill seconded. The motion passed by a 5-2 vote with Ms. Guazzo and Mr. Reeves opposed.*** Ms. Guazzo stated she is opposed only to the RL zoning portion of the amendment.

## **DEVELOPMENT REVIEW**

### **PSUB #06-120-008 – Belle Arbor Phase 1**

Mr. Berry gave an overview of the request for preliminary re-review and re-approval of Phase 1 for 30 lots stating mitigation for traffic impacts at the intersection at MD Route 4 and Willows Road intersection will be made and fees will be collected. Mr. Berry stated this was approved by the Planning Commission on October 28, 2008 however during grading an unauthorized landfill was found on the property therefore the applicants have revised their site plan which now needs re-approval.

Ms. McNeill asked for a summary of the amendment made to the site plan. Mr. Berry stated the summary of the amendments are listed on the site plan. Ms. McNeill asked if there was sufficient distance from the proposed building site and the landfill. Mr. Berry stated the landfill will have to be cleaned up and proper coverings will take place.

***Mr. Hayden made a motion in the matter of PSUB #06-120-008, Belle Arbor Subdivision Phase 1, containing 30 of 149 duplex and townhouse lots, having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, and compliance with the annual growth policy, as described in the Director's Report, I move that the preliminary subdivision plan for Phase 1 be approved and Mr. Chase seconded. The motion passed by a 7-0 vote.***

### **PSUB #09-120-005 – Belle Arbor Phase 2**

Mr. Berry gave an overview of the preliminary review and approval of phase 2 for 30 lots stating mitigation for traffic impacts at the intersection at MD Route 5 and Willows Road intersection will be made and fees will be collected.

Mr. Siebert stated it looks like phases 4 and 5 are the most affected by the landfill. Mr. Berry stated this is correct. Mr. Siebert stated this landfill hasn't been used since the 60's. Mr. Berry stated this is correct. Mr. Bailey stated the concept was done prior to discovering the landfill issue; the landfill will have to be removed and covered prior to recordation of the plat.

***Mr. Hayden made a motion in the matter of PSUB #09-120-005, Belle Arbor Subdivision Phase 2, containing 30 of 149 duplex and townhouse lots, having accepted the staff report and having made findings pursuant to Section 30.5.5 of the Subdivision Ordinance (Criteria for Approval of a Preliminary Plan), including adequate public facilities, and compliance with the annual growth policy, as described in the Director's Report, I move that the preliminary subdivision plan for Phase 2 be approved and Mr. Siebert seconded. The motion passed by a 7-0 vote.***

**DISCUSSION**

**Comprehensive Plan**

Mr. Jackman introduced Ms. Veith, Environmental Planner for the Department of Land Use and Growth Management. Ms. Veith gave an overview of the environmental elements of the Comprehensive Plan included in Chapters 5, 6, and 7.

**ADJOURNMENT**

The meeting was adjourned at 9:05 p.m.

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Jada Stuckert  
Recording Secretary

Approved in open session: June 8, 2009

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Stephen T. Reeves  
Chairman